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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,676	09/14/2001	Christine Libon	PF98PCTSEQ/dln	9130

25666 7590 03/18/2003

THE FIRM OF HUESCHEN AND SAGE
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EXAMINER

ZEMAN, ROBERT A

ART UNIT

PAPER NUMBER

1645

DATE MAILED: 03/18/2003

Response Due 10A
April 18, 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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The Firm of
HUESCHEN AND SAGE

Office Action Summary

Application No.

09/936,676

Applicant(s)

LIBON ET AL.

Examiner

Robert A. Zeman

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 34-71 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions that are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 34-35 and 38-54, drawn to methods of orienting immune response toward a Th1 type or mixed Th1/Th2 type response utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group II, claim(s) 36, drawn to a method of preparing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten utilizing chemical extraction techniques.

Group III, claim(s) 37, drawn to a method of preparing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten utilizing freeze/thaw, acid precipitation and dialysis techniques.

Group IV, claim(s) 55-61, drawn to methods of treating infectious viral disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group V, claim(s) 55-56, drawn to methods of treating infectious bacterial viral disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group VI, claim(s) 55-56, drawn to methods of treating infectious fungal disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group VII, claim(s) 55-56, drawn to methods of treating infectious parasitic viral disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group VIII, claim(s) 55-56, drawn to methods of treating cancer utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group IX, claim(s) 55-61, drawn to methods of preventing infectious viral disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group X, claim(s) 55-56, drawn to methods of preventing infectious bacterial viral disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group XI, claim(s) 55-56, drawn to methods of preventing infectious fungal disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group XII, claim(s) 55-56, drawn to methods of preventing infectious parasitic viral disease utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group XIII, claim(s) 55-56, drawn to methods of preventing cancer utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

Group XIV, claim(s) 62-71, drawn to pharmaceutical compositions comprising *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten.

The inventions listed as Groups I-XIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Pursuant to 37 C.F.R. 1.475(d), the ISA/US considers that where multiple products and processes are claimed, the main invention shall consist of the first invention of the category first mentioned in the claims and the first recited invention of each of the other categories related thereto. Accordingly, the main invention (Group I) comprises the first recited **method**, methods of orienting immune response toward a Th1 type or mixed Th1/Th2 type response utilizing *Klebsiella pneumonia* membrane fractions combined with an antigen or hapten. Further pursuant to 37 C.F.R. 1.475(d), the ISA/US considers that any feature which the subsequently recited products and methods share with the main invention does not constitute a special technical feature within the meaning of PCT rule 13.2 and that each of such products and methods accordingly defines a separate invention.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Zeman whose telephone number is (703) 308-7991. The examiner can normally be reached on Monday- Thursday, 7am -5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (703) 308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Robert A. Zeman
March 11, 2003


LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600